

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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LAWRENCE HARDY, RAMONE CROSS, and  
SHAWN SMITH, individually and on behalf of all others  
similarly situated,

08 Civ. 2460 (SHS)

Plaintiffs,

– against –

**NOTICE OF MOTION**

BRIAN FISCHER, in his capacity as Commissioner  
of the New York State Department of Correctional  
Services (DOCS), and in his individual capacity;  
ANTHONY J. ANNUCCI, in his capacity as Deputy  
Commissioner and Counsel for DOCS, and in his  
individual capacity; LUCIEN J. LECLAIRE, JR., former  
Acting Commissioner of DOCS, in his individual capacity;  
GLENN S. GOORD, former Commissioner of DOCS,  
in his individual capacity; and JOHN/JANE DOES 1-50  
(DOCS Supervisory, Training, and Policy Personnel),

Defendants.  
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PLEASE TAKE NOTICE that upon the Declaration of Matthew D. Brinckerhoff dated June 25, 2008, the Declaration of Lawrence Hardy, dated June 4, 2008, the Declaration of Ramone Cross, dated June 23, 2008, plaintiffs' memorandum of law in support of this motion, the Amended Complaint, and upon all prior pleadings and proceedings, plaintiffs will, pursuant to Rule 23 of the Federal Rules of Civil Procedure, move this Court at the United States Courthouse for the Southern District of New York, 500 Pearl Street, New York, New York before the Honorable Sidney H. Stein, United States District Judge, for an Order granting plaintiffs' motion to certify a class of "all persons sentenced to a determinate term of incarceration in the State of New York, whose judicially imposed sentence(s) did not include a

term of post-release supervision (“PRS”), but whom nevertheless have been, or will be, subjected to PRS after the maximum expiration date of their determinate sentence(s)” and naming plaintiffs Hardy and Cross as representatives of the class.

Dated: June 26, 2008  
New York, New York

Respectfully submitted,

EMERY CELLI BRINCKERHOFF  
& ABADY LLP

By: \_\_\_\_\_/s/\_\_\_\_\_  
Matthew D. Brinckerhoff (MB 3552)  
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LAW OFFICES OF JOSHUA L. DRATEL, P.C.

By: \_\_\_\_\_/s/\_\_\_\_\_  
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*Attorneys for Plaintiffs*